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~~Claim 41. I claim the access system of claim 40~~
~~characterized in that the programs are compressed in a MPEG~~
~~form and means to selectively decompress said MPEG signals.~~

REMARKS

In respect to the examiner's objection to the specification and claims under 35 USC 112, the applicant has amended the claims to meet all of the examiner's objections thereto.

In respect to the examiner's rejection to claims 1-6, 8-12, 25, 27, and 33-36 under 35 USC 102(e) as being anticipated by Ryan U.S. Patent 5,524,051, the applicant will be submitting declarations by Steve Anderson and James Carl Cooper with accompanying exhibits which antedate the Ryan publication and filing date thus removing Ryan as a prior art reference. It is believed that these declarations avoid the necessity of specifically commenting on the examiner's specific rejections based on Ryan. The applicant apologizes to the examiner for the timing of the submission of the declarations: The review of the records to develop the exhibits and declarations was significant.

In respect to the examiner's rejection of claims 14-20 under 35 USC 102(e) as being anticipated by Dean U.S. Patent 5,303,326, the applicant comments as follows:

The particular claims 14-20 are set forth in a means plus function. According to In Re Donaldson, 29 USPQ 2nd 1845 (Fed. Cir. 1994), a means plus function limitation in a claim should be interpreted as being directed to the corresponding

structure, materials, or acts described in the specification and the equivalent thereof.

The applicant believes that the teachings of Dean and the teachings of applicant's specification establish the distinctiveness of applicant's claimed invention in accord with the Manual of Patent Examining Procedure Section 2184.

The Dean reference teaches in pertinent part of a computerized system for recording commercial advertisements and other program material to provide for greatly simplified booth procedures as well as eliminating the degradation of sound quality which occurs over time with conventional magnetic tape based systems (col 2 lns 20-33; col 4 lns 1-8; col 1 lns 33-41). The particular device disclosed records the signals on the disk 3 with the playing back of the signals occurring in real time to facilitate booth procedures for airing radio program materials (col 5 lns 28-33). The software disclosed are primarily drivers to operate the physical components of the system as well as scheduling and transmission tracking (col 3 lns 42-55; col 11 lns 29-col 12 ln 34).

There is no teaching in Dean of what occurs to the program material on the hard disk 3. There is only a brief mention of a modified DOS operating system (col 5 ln 56; col 7 ln 2) and a manual program editor (col 11 lns 54-58).

In the applicant's invention, there is a recognition that, with a finite amount of program data storage, sooner or later there will no more storage available for incoming programs (pg 11 lns 8-10). The applicant therefore teaches that the data manager can be programmed with a known set of

priorities, which may be changed from time to time (pg 11 lns 10-16). With this programming, upon the identification of no more storage being available for incoming programs and the possible result in loss of previously stored data, an overwriting will occur based on the amount of remaining storage and the rate of desired incoming program data, with the parameters and priorities selected by the user (pg 11 lns 16-22). An example of priorities are multiple number of viewers over a lesser number of viewers (pg 11 lns 22-25), all programs from a particular service (pg 11 lns 26-30), and/or other priorities. This can be both after the fact (overwriting existing data) or may be active to keep memory available for a particularly desirable program (pg 11 ln 30-pg 12 ln 20). Other considerations include available storage (pg 75 lns 11-12), time of storage (pg 75 lns 15-16), the accessing of programs (pg 75 lns 24-25), the occurrence of a certain event (pg 76 lns 3-4), and the arrival of a certain time (pg 76 lns 7-8). The applicant's invention thus is an accessible disk that allows a user to provide a known set of priorities in order to automatically cope with a finite amount of data storage capability. The device thus loses or discards known previously stored data or tracks available disk space automatically by itself as it has been programmed.

It is not believed that the fact that Dean incorporates a hard disk into a system for broadcasting advertisements or other signals from a radio station could be considered to be a corresponding structure, material, or act described in the applicant's specification or the equivalent thereof as set forth above.

It is noted that Dean uses a DOS operating system. However, there is no teaching in Dean of programming anything to automatically delete data on the hard disk. Dean therefore does not have a structural equivalent to the applicant's means performing the functions specified in the claims as hereinafter set forth.

The applicant further believes that the currently pending claims 14-20 differentiate over the examiner's cited Dean reference.

In respect to claim 14, this claim recites "an overwrite means to automatically overwrite previously stored material based on determinable criteria built from a known set of priorities" (claim 14).

As previously discussed, this refers to the ability of the applicant's device to automatically manage disk storage by itself automatically and actively manipulating good data stored in the past as well as data to be stored in the future based upon the user's own set of priorities. An example of this would be to delete an old but not viewed recording of the Today Show in order for the disk to be able to accept and record an E-Mail message from one's mother.

The Dean reference is without teaching of any overwriting of any data on its hard disk, let alone automatically getting rid of good data based on preset programming. Further, in the systems the computer undersigned is aware of, it is necessary to manually intervene before overwriting good data on a hard disk (i.e., the computer will need a manual instruction necessitating a conscious decision by the operator).

In respect to claims 15, 16, 17, and 20, the examiner's states that these are "inherent" to a computer system. The applicant agrees that computer systems are able to effectively delete data from a hard disk, for example in a DOS system removing the location of the data from the file allocation tables (FAT) thus making these locations available for substitute data. However, the claimed element is different, in specific, not expressly shown or discussed in Dean. It is thus believed that it cannot be held to be a "inherent" feature of the reference structure. Tyler Refrigeration v. Kysor Industrial, 227 USPQ 845 (Fed. Cir. 1985). Even if this modification of a FAT table to open up room for new data is "inherent" in Dean, it still does not meet the overwrite means recitation as previously set forth in respect to claim 14. It is not merely the overwriting of data that the applicant is claiming, but instead an overall access system which accomplishes this result automatically based on a set of priorities. This would be a far cry from a typical DOS user who manually deletes a file from the FAT table to make space available for future use.

Claim 15 depends on claim 14 additionally reciting that the overwrite means includes the consideration of available storage. Dean does not teach of this.

Claim 16 differentiates over Dean like its parent claim 14. Further, it is the overwrite means which includes the consideration of the time of storage. This claim thus would additionally distinguish over a DOS system wherein a user decides to delete from his FAT table all programs with a date prior to December 1, 1996. It is noted that in computers

blind erasure of files could crash the system. For example if files were deleted by date alone, critical system files could also be erased necessitating reloading prior to subsequent computer operation.

In respect to claim 17, again this claim depends on claim 14, Further the overwrite means including consideration of a user's priority additionally distinguishes over Dean. Dean does not have an overwrite means. There is no teaching in Dean of multiple users for a single system, with the overwrite means operating based on the ranking of priority of any user.

In respect to claim 18, this claim recites there is a "means to automatically allow access to a previously utilized storage area once the program therein has been accessed". This claim refers to the applicant's invention's ability to be programmed such that the overwrite means automatically will delete a single program from the storage area once that program has been accessed. There is no teaching in Dean of the automatic deletion of a particular radio jingle or other recorded sound from the hard disk after access. Indeed, Dean envisions multiple uses of each commercial in order to avoid the wear which degrades the sound and also damages a cartridge tape player in a radio station broadcast system (col 1 lns 34-41; col 3 lns 45-55). To include automatic deletion by access thus defeats the purpose of Dean and would therefore be against the teachings thereof. The applicant therefore believes that this claim also distinguishes over Dean.

In respect to claim 19, this claim recites that there is a "means to allow access to a previously utilized storage area upon the occurrence of a certain event". There is no teaching in the Dean reference of the deletion of material from a particular storage area based on the occurrence of anything, let alone the occurrence of a certain event. It is therefore believed that this claim distinguishes over Dean.

In respect to claim 20, this claim builds upon claim 19 and recites that the certain event is "the arrival of a certain time". Again, there is no teaching in Dean of the automatic deletion of anything based on the passage of time. Further to the above, again it is believed that it would be against the teachings of Dean to incorporate such a means in that it would be against the cited function of Dean as set forth above in respect to claim 15.

Based on the above, the applicant respectfully requests the examiner's reconsideration of the Dean based rejections.

In respect to the examiner's rejection of claim 28 under 35 USC 102(e) as being anticipated by Yoshioka U.S. Patent 5,483,506, this reference teaches of a radio broadcast interrupt system for playback devices. In particular, upon reception of a radio broadcast by the tuner, the playback device will be interrupted, with the playback device switching back to a normal playback from the point of interruption upon the cessation of the radio broadcast (col 2 lns 10-22; fig 1).

The pertinent claim 28 is in contrast directed to an access system in which (for example in fig 6) the live select

control from the computer processing unit selectively switches the output (from the MPEG decoder shown) between information from the data storage and the information developed from prior to the data storage.

The applicant has amended claim 28 to more closely capture this teaching in the applications. Claim 28 has been modified to recite "means to record the programs in the storage area and means to bypass the storage area so as to select real time reproduction while continuing to record programs in the storage area".

The Yoshioka reference that merely switches between a radio tuner 10 and a playback device 25. Specifically, it does not record the incoming materials from the radio tuner onto the playback device while simultaneously switching to live programs. It is therefore believed that this claim 28 as amended distinguishes over Yoshioka.

In respect to the rejection of claims 29, 31, and 32 under 35 USC 102(e) as being anticipated by Rogalski U.S. Patent 5,159,636, the applicant respectfully requests the examiner's reconsideration of this rejection.

Rogalski teaches in pertinent part of a device having two alternate embodiments, both hard wired and mutually exclusive of the other. The first embodiment is set forth in solid line in figure 1 and the schematic diagram in figure 3 with the second alternate embodiment set forth in the dotted line in figure 1 and figures 8 and 9. The difference between the two embodiments is that the differential output is taken through or across the feedback filter whereby the same overall response is obtained but with improved immunity to noise in

particular 60 cycles (col 3 lns 42-49; col 4 lns 18-31). In Rogalski, there is no selective alternate interconnection of the solid line or dotted line in figure 1; either one or the other is used full time in any particular device.

In contrast, in the applicant's invention, there is an artifact removal device, the specific one in figure 6 being a time compression expansion artifact removal device, that is selectively bypassed when it is not needed. In the preferred embodiment disclosed in figure 6, the compression expansion artifact removal is not needed when the device is played at normal speed and thus is bypassed.

Claim 29 mirrors this by calling for "a means to selectively bypass the artifact modifier circuit". There is no selective deactivation taught in Rogalski. To the contrary, whatever circuit being utilized in Rogalski is utilized full time.

The applicant is determined that modifying the claim to recite that the means to deactivate operates "selectively" would more clearly capture this distinctiveness of the applicant's invention. It is therefore been included in this claim 29.

In respect to claim 31, this claim recites that the artifact modifier circuit is a "frequency converter". As previously discussed, the dashed line in Rogalski figures 1 and 25 does not denote the selective deactivation of anything. In addition the reference has no frequency converter means. The frequency converter means which is recited is as taught by the applicant beginning with figure 7. As can be seen in an example in figures 9-21, the circuit allows a particular

signal to be played back at a differing speed while retaining the same frequency information. Rogalski does not have this type of circuit. In order to clarify this distinctiveness, the applicant has modified the claim 31 to recite that the frequency converter is a "frequency converter means" thus more specifically referencing the disclosure of the present application.

In respect to claim 32, there is no bypassing of an artifact modifier circuit in Rogalski. Instead, Rogalski merely teaches of two alternate embodiments, either one of which would be used exclusively in a single circuit.

In respect to the rejection of claim 21 under 35 USC 102(b) as being anticipated by Schiffman U.S. Patent 3,786,195, the applicant has amended this claim to clarify the distinctiveness of the access system recited therein.

The claim currently recites that in an access system there is the improvement of "means to select the accessible program from multiple programs and means to alter the certain length of the accessible program to the different length". This recitation refers to the teachings in the specification that a user can select a program and then alter its reproduced length to a different length (pg 2 ln 21-pg 3 ln 18).

The Schiffman device has a sound signal channel coming from the playback device (abstract ln 3; 51 of fig 7). There is no teaching in this reference of the selection of a particular program from an access system prior to the alteration of the length of such program. Instead a single input signal is utilized. The applicant therefore believes

that this claim 21 is distinguishable over the teachings of the cited Schiffman reference.

In respect to the rejection of claims 22-24 under 35 USC 103(a) as being unpatentable over Schiffman further in view of Yoshioka, as previously discussed, the Schiffman reference does not include the means to select the accessible program from multiple programs. The Yoshioka reference does not have this ability either. As such, it is believed that claims 22-24 distinguish over the examiner's cited references.

In addition, the applicant believes there is no teaching of the examiner's alteration of the references. For example, Schiffman uses different time durations than original time (col 1 lns 5-10). However, it does not teach of using this to end a program based on the length of interruption (claim 22), to end a program at a certain known time in the future (claim 23), or to do so automatically (claim 24). Indeed, neither reference has the ability to keep track of time, let alone use this time to control playback time. At most, it is believed that the combination of references would turn off the Schiffman device during radio reception.

In respect to the examiner's rejection of claims 7 and 26 under 35 USC 103(a) as being unpatentable over Ryan, as previously discussed, it is believed the declarations antedate Ryan and thus removes it from consideration.

In respect to the rejection of claim 3 under 35 USC 103(a) as being unpatentable over Ryan further in view of Barrett U.S. Patent 5,287,420, again, since the inventors declarations antedate Ryan, it is believed that claim 13 is allowable over this combination.

In respect to the rejection of claim 30 under 35 USC 103(a) as being unpatentable over Rogalski further in view of Barrett, the applicant believes that since the parent claim 29 distinguishes over Rogalski, a dependent claim would also distinguish over a combination of Rogalski and a secondary reference. In addition, even if the references were combined, the applicant believes that it would still not teach of the invention claimed in claim 30. The reason for this as previously discussed the inclusion of an MPEG decoder in Rogalski still would not provide for the means to deactivate a modifier circuit. In addition, it is not believed that the combination would teach of other recitations in this claim.

In that the above is believed to meet the examiner's objections and rejections, favorable action is solicited.

Respectfully submitted,

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